

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

AARON VAUGHN,

Plaintiff,

v.

SHON GILL Correctional Officer and

DENNIS JOHNSTON Correctional

Officer,

Defendants.

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2:24cv1368

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MEMORANDUM ORDER

AND NOW, this 20th day of May, 2025, upon due consideration of 1) plaintiff's complaint and 2) the Report and Recommendation of the Magistrate Judge and [24] plaintiff's objections thereto, and after *de novo* review of the record, IT IS ORDERED that plaintiff's complaint be, and the same hereby is, dismissed for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and 28 U.S.C. § 1915A(b)(1). The [18] Report and Recommendation of the Magistrate Judge as augmented therein is adopted as the opinion of the court.

Plaintiff's objections are without merit. The notion that the statute of limitations can be tolled for years while a plaintiff fails to exhaust available administrative remedies is unsupportable and there is no sound basis for application of a continuing wrong or violation theory. Indeed, while plaintiff may well have been subjected to excessive force at the hands of the defendants in 2016, plaintiff seeks to revive his excessive force claim after waiting over four years to initiate his grievance with prison authorities. As aptly explained by the Magistrate Judge, such a lapse in time precludes further relief on the merits; and

A final judgment order pursuant to Rule 58 will be entered in the form of the dismissal of plaintiff's complaint.

s/David Stewart Cercone
David Stewart Cercone
Senior United States District Judge

cc: The Honorable Kezia O.L. Taylor,
United States Magistrate Judge

(Via CM/ECF Electronic Mail)

Aaron Vaughn
KW-3603
SCI Benner Township
301 Institutes Drive
Bellefonte, PA 16823

(Sent Via First Class Mail)